

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION CONFERENCE COMMITTEE ON HOUSE AMENDMENTS TO SENATE BILL 57

Call to Order: By **CHAIRMAN COREY STAPLETON**, on April 12, 2001 at 12:00 P.M., in Room 350 Capitol.

ROLL CALL

Members Present:

Sen. Corey Stapleton, Chairman (R)
Rep. Douglas Mood, Vice Chairman (R)
Rep. Donald L. Hedges (R)
Sen. Royal Johnson (R)
Sen. Linda Nelson (D)
Rep. Frank Smith (D)

Members Excused: None.

Members Absent: None.

Staff Present: Stephen Maly, Legislative Branch
Mary Gay Wells, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Executive Action: SB 57 No action

{Tape : 1; Side : A; Approx. Time Counter : 0}

HEARING ON SB 57

Comments and Questions from Committee Members and Responses:

CHAIRMAN COREY STAPLETON opened the meeting. He asked **SEN. ROYAL JOHNSON** to comment on the status of the bill.

SEN. JOHNSON informed the committee that the bill tried to do a couple of things. The main issue was to extend the period for universal benefits from 2003 to 2005. The legislature could look at it again in 2003. The House amendments take out Montana Dakota Utilities (MDU) from the electric end of their charges. The gas charges of MDU would have the same as the law states now and they have no limitation. He resisted the amendments because the period should be extended and MDU should not be exempted out of the situation.

SEN. LINDA NELSON felt that MDU was a separate entity. They are exempt from deregulation now in this session. They have a very small portion of the state. Their business is mainly in North Dakota. While they are exempt from deregulation and do plan to come on line when N.D. comes on line for deregulation, she believed they should be exempt at this time.

REP. DON HEDGES said that he resisted removing the House amendments for the same reasons that **SEN. NELSON** had just given. There had been very limited participation in the area of Montana. Out of some 23,000 customers, less than two dozen have participated. The current law keeps the program in place for two years which was an adequate amount of time for those using the Universal Systems Benefit Program (USBP) to come up to speed. It can be reviewed again in the 2003 session without having any impact on the program.

CHAIRMAN STAPLETON offered that the Senate was trying to be consistent in not exempting anyone. There was a list of others besides MDU who had applied for these exemptions.

SEN. JOHNSON introduced a letter **EXHIBIT (ccs83sb0057a01)** written by **Greg Petesch, Director of Legal Services**. It was an analysis of the amendments that had been placed on the bill by the House. The amendments may violate Article V, section 11(1) of the Montana Constitution. The other issue involved the equal protection portion of the law as embodied in Article II, section 4, of the Montana Constitution.

In addition to that, the program that is currently in existence provided a great deal of money. It provided \$127,000 for electric bill discounts in **REP. HEDGES'** area. Those people are getting a 15% discount. It provided weatherization with almost the same amount of money. Energy Share Endowment is about \$20,000. Energy audits total about \$10,000. Low income bill assistance and energy share total about \$10,000, etc. Here was a program that is in place in Montana. MDU sells a big portion of their gas in Billings. People in Billings are currently paying four times more per decatherm for their gas than anywhere else in

the state. Of course, MDU wants to be exempted. There is a lot of money involved.

SEN. NELSON said she was not disputing that the program was good. Transition Advisory Committee (TAC) was suppose to monitor and evaluate the energy assistance program. The study was not done. North Dakota and South Dakota do not have a program like this. If there had been a good study done, the legislature would have had something to compare.

REP. DOUG MOOD had been vocal about some of the uses of the money that had been totally inappropriate like transfers of public money to people who should not be receiving it. The reason the public utilities of Montana support this is they use this program to upgrade some of their equipment like their transformers that are old and outdated. He had no objection to transferring money from the rate payers into the pockets of those who are in need of help. He wanted them to know that it was very difficult for him to vote for the exemption of one company, MDU.

SEN. NELSON stated that Montana Power Co. has had this in their base rate for some time.

REP. MOOD had received letters from the Billings area asking why they were being asked to pay certain charges. It was upsetting to those people.

REP. HEDGES agreed he also would have had a difficult time of exempting one company if they are the same, but MDU is not the same. Their customers do not have the privilege of being deregulated in 2002. Current law forces everyone to pay this tax through the next biennium. No energy share programs should be impacted by leaving the bill as it stood.

SEN. JOHNSON questioned the previous statement. He thought the effective date of the bill was on passage and approval which would then take the money away. He asked **Stephen Maly, Legislative Branch**, to comment.

Mr. Maly said his understanding of the bill was a straightforward exemption that would enter into effect once the bill was passed. As such, MDU would be immediately exempt from the requirement that USBC charges be relayed to customers. He could not speak to how that might affect monies that have been collected. It would exempt them on passage rather than in the future. The essence of the bill, before amended, was to extend that date.

REP. FRANK SMITH said he had called both MDU and REA in his area. REA told him that they were not paying it and they felt that MDU

should not be paying it. He had received letters for both sides. The state has said they don't use that much of it. It was mostly in the Miles City and Billings areas.

SEN. STAPLETON stated that Montana is large with diverse geographic areas. He encouraged the committee to think of the state as a whole and not vote for one section of Montana over another.

REP. HEDGES explained that he would make the same decision no matter where he lived because he felt that 17% of the \$13 million collected and going to energy share was an inadequate amount. The bulk of the money was being used for weatherization or research programs that most taxpayers in Montana would not believe was a good investment. There are many communities struggling to pay their bills and they do not see any need to invest \$13 million in research, etc. for other people.

SEN. JOHNSON asked **Jim Nolan**, who administers the program in this end of the state, to comment.

Jim Nolan, Dept. of Public Health and Human Services. They administer the federal Low Income Energy Assistance Program (LIEAP). When people sign up for the LIEAP, and if they are an MDU customer or an MPC customer, they receive an additional 15% discount that is paid out of USBC. Last year they had 2055 households from MDU who received LIEAP help. If that same figure holds through this year, they will get help from USBC. The plan that MDU filed with the Public Service Commission has a total of \$500,000 or so for USBC. \$127,000 goes to low income families. \$127,000 goes to the weatherization program. About \$20,000 goes to the energy share. Only the remainder goes to non low-income programs.

REP. SMITH asked about LIEAP. Was it a totally federal program. **Mr. Nolan** replied it is. In **REP. SMITH'S** area, the LIEAP was not reflected in the above numbers. Fort Peck Reservation runs their own LIEAP program. They serve about 1000 households.

SEN. JOHNSON moved **DO NOT CONCUR with the House amendments.** The motion failed 3-3 with Senator Nelson, Rep. Smith and Rep. Hedges voting no.

SEN. NELSON moved **DO CONCUR with the House amendments.** The motion failed. Senators Stapleton and Johnson voted yes. Senator Nelson voted no. All Representatives voted yes.

For a motion to pass two senators and two representatives must agree.

CHAIRMAN STAPLETON read the options. Each house votes separately and needs a majority to come out. If one house votes against the motion there are four options.

1. Meet again.
2. Dissolve and appoint new members.
3. Dissolve and become a free conference.
4. Reconsider action by those against.

He did not feel #2 would be helpful.

SEN. JOHNSON moved to adjourn.

SEN. NELSON wanted to know what happened if the committee adjourned.

CHAIRMAN STAPLETON told them that failure to reach some agreement will kill the bill.

SEN. NELSON felt adjournment was good. In the next legislative session, they can reconsider the bill.

CHAIRMAN STAPLETON commented that the bill could be looked at again; but he felt the meeting had been a good one and there probably would not be another conference committee.

REP. MOOD said his understanding was if there were not an extension of the deadline, there would be some logistical problem with the continuity of the program. They would not know in 2003 whether the program would be extended until about this same time in 2003. The deadline would be within a couple of months if it should not get extended.

Vote: The motion to adjourn carried unanimously.

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ADJOURNMENT

Adjournment: 12:30 P.M.

SEN. COREY STAPLETON, Chairman

MARY GAY WELLS, Secretary

CS/MGW